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E-Filed 7/15/2010

ATTORNEYS FOR DEFENDANT ERNST & YOUNG LLP

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID HO, JOHN MAXTON,
NATHAN LAY, and SARAH
FERNANDEZ on behalf of
themselves and others similarly
situated and on behalf of the general
public and DOES 1-20

Plaintiff,

v.

ERNST & YOUNG LLP

Defendant.

Case No. CV 05-04867 JF (HRL)

[Consolidated for Class Certification
Purposes with Case Nos. CV- 08-
02853-JF and
CV-08-04988-JF]

[Assigned for all purposes to the
Honorable Jeremy Fogel]

**~~PROPOSED~~ ORDER RE
DEFENDANT ERNST & YOUNG
LLP'S ADMINISTRATIVE
MOTION RE MEAL AND REST
BREAK CLAIMS AND CLAIMS
FOR INJUNCTIVE RELIEF OF
PLAINTIFFS JOSEPH LANDON
AND SARAH FERNANDEZ**

Complaint Filed: September 27, 2005

JOSEPH LANDON, individually and
on behalf of all others similarly
situated,

Plaintiffs,

v.

ERNST & YOUNG LLP, a limited
liability partnership; ERNST &
YOUNG U.S. LLP, a limited liability
partnership; and DOES 1-100,
inclusive,

Defendants.

Case No. CV- 08-02853-JF (HRL)

Complaint Filed: February 21, 2008

MICHELLE RICHARDS, on behalf
of herself and all others similarly
situated and on behalf of the general
public,

Plaintiffs,

v.

ERNST & YOUNG LLP, and
DOES 1 – 50,

Defendants.

Case No. CV-08-04988-JF (HRL)

[Assigned for all purposes to the
Honorable Jeremy Fogel]

Complaint Filed: June 19, 2008


1 On May 19, 2010, Defendant Ernst & Young LLP ("Defendant") filed an
2 administrative motion to apply this Court's ruling with respect to Defendant's motion
3 for summary judgment as to Plaintiff Michelle Richards to the claims of Plaintiffs
4 Joseph Landon and Sarah Fernandez ("Plaintiffs") as well, thereby dismissing their
5 claims for injunctive relief with prejudice and dismissing their meal and rest break
6 claims without prejudice.

7 After considering this motion, IT IS HEREBY ORDERED THAT the motion is
8 GRANTED for the following reasons:

9 1. Plaintiffs lack standing to seek injunctive relief because they are no longer
10 employed by Ernst & Young and therefore are no longer subject to the employment
11 practices at issue in this action.

12 2. Plaintiffs' claims for meal and rest breaks are dismissed without prejudice
13 because the California Supreme Court is currently considering the standard that will
14 apply.

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17 Dated 7/15/2010, 2010

18 By 
19 Hon. Jeremy Fogel
20 Judge of the United States District Court
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On May 20, 2010, I served the foregoing document(s) described as: **[PROPOSED] ORDER RE DEFENDANT ERNST & YOUNG LLP'S ADMINISTRATIVE MOTION RE MEAL AND REST BREAK CLAIMS AND CLAIMS FOR INJUNCTIVE RELIEF OF PLAINTIFFS JOSEPH LANDON AND SARAH FERNANDEZ** on the interested party(ies) below, using the following means:

**All parties identified for Notice of Electronic Filing
generated by the Court's CM/ECF system under the
referenced case caption and number**

☒ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on May 20, 2010 at Los Angeles, California.

Rose Shushanyan

Print Name

Rose Shushanyan

Signature